



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/379,492	08/23/1999	PETER COLIN WESTON BURT	REF/BURT/392	1342

7590 12/31/2001

RICHARD F FICHTER
BACON & THOMAS PLLC
625 SLATERS LANE
4TH FLOOR
ALEXANDRIA, VA 22314

EXAMINER

DERAKSHANI, PHILIPPE

ART UNIT	PAPER NUMBER
----------	--------------

3754

DATE MAILED: 12/31/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY

Office Action Summary

Application No.

09/379,492

Applicant(s)

BURT, PETER COLIN WESTON

Examiner

PHILIPPE S DERAESHANI

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/12/01.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-35 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-35 and 37-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

BEST AVAILABLE COPY

Art Unit: 3754

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-22 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goncalves in view of Welter.

Goncalves shows an aerosol dispenser comprising a body 2, a closure 3, flanges 9 and 7 and means for dispensing 13. Goncalves lacks the closure ultrasonically welded to the body. Welter shows two pieces welded ultrasonically to each other to assure a uniform distribution of amplitude of vibration and a resultant uniform bond (see column 1, lines 43-48). It would have been obvious to one of ordinary skill in the art to have modified the Goncalves closure ultrasonically welded to the body as taught by Welter to assure a uniform distribution of amplitude of vibration and a resultant uniform bond.

3. Claims 23- 25, 32-35, 37 and 39 are rejected under 35 U.S.C. § 103 as being unpatentable over Goncalves. in view of Welter as applied to claims 20 above, and further in view of Mascia et al.

Goncalves lacks the flanges rolled and crimped together. Mascia et al. show a closure 16 and body 12 having flat flanges which are rolled and crimped together. It would have been

BEST AVAILABLE COPY

Art Unit: 3754

obvious to one of ordinary skill in the art to have modified the Goncalves flanges with flanges which are rolled and crimped together as taught by Mascia et al. as an alternative equivalent means for attaching a close to the body of an aerosol dispenser.

4. Claim 26, 38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goncalves in view of Welter as applied to claim 20 above, and further in view of Ryden.

Goncalves lacks the aerosol dispenser an inhaler. Ryden shows an aerosol dispenser an inhaler containing medicaments to deliver prompt response to patients (see column 1, lines 9-18). It would have been obvious to one of ordinary skill in the art to have modified the Goncalves aerosol dispenser with an inhaler containing a medicament as taught by Ryden to deliver prompt response to patients.

Response to Arguments

5. Applicant's arguments filed 10/12/01 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

BEST AVAILABLE COPY

Art Unit: 3754

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philippe Derakshani whose telephone number is (703)308-0861.

**PHILIPPE DERAESHANI
PRIMARY EXAMINER
ART UNIT 3754**

[Signature] 12-31-01

PD
December 31, 2001

BEST AVAILABLE COPY